

## RESOLUTION NO. A-\_\_\_\_\_

1 WHEREAS, MDS Pharma Services has submitted an application for a permit to use  
2 the public right-of-way in Peach Street between South 6th Street and South 7th Street for the  
3 installation of a nitrogen line to connect a nitrogen tank at 621 Peach Street to the MDS Pharma  
4 Services main building; and

5 WHEREAS, said applicant has submitted a letter of application and a site plan which  
6 are attached hereto, marked as Exhibit "A" and Exhibit "B" respectively, and made a part of this  
7 resolution by reference, to use the public right-of-way as above described; and

8 WHEREAS, said applicant has complied with all of the provisions of Chapter 14.54  
9 of the Lincoln Municipal Code pertaining to such use.

10 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln,  
11 Nebraska:

12 That the application aforesaid of MDS Pharma Services, hereinafter referred to as  
13 "Permittee" to use the public right-of-way in Peach Street between South 6th Street and South 7th  
14 Street, at 621 Peach Street, is granted as a privilege only by virtue of and subject to strict  
15 compliance with the site plan, the letter of application, and the following terms and conditions, to  
16 wit:

17 1. That the permission herein granted is granted as a privilege only, and is  
18 subject to all the terms and conditions of Chapter 14.54 of the Lincoln Municipal Code including  
19 those provisions relating to the posting of a continuing bond in the amount of \$5,000, and the filing  
20 of a certificate of insurance with a minimum combined single limit of \$500,000 aggregate for any  
21 one occurrence.

22 2. That said use shall be in full accordance with the aforesaid application, the  
23 site plan filed therewith, and with all applicable City ordinances and regulations.

1                   3.       The Permittee, its heirs, successors or assigns shall save and keep the City  
2 free and harmless from any and all loss or damages or claims for damages arising from or out of  
3 the use of the public way requested herein.

4                   4.       That all work done under the authority of this resolution shall be subject to  
5 the inspection and approval of the Director of Public Works of the City of Lincoln.

6                   5.       This permit may be revoked by resolution of the City Council and after giving  
7 of five days written notice to the Permittee by the City Clerk, for the following reasons: (a) failure  
8 of the Permittee to pay the compensation required within ten days after the date payment is due;  
9 (b) failure or neglect of the Permittee to comply with the provisions of Chapter 14.54 of the Lincoln  
10 Municipal Code, or any other provisions of the Lincoln Municipal Code or the provisions of the  
11 permit; (c) failure to use the space for which the permit was granted for a continuous period of at  
12 least six months or (d) upon a determination by the City that the space for which the permit was  
13 granted is needed for public use.

14                   Upon revocation of a permit, the Permittee shall forthwith remove or abandon  
15 the space for which the permit was granted, together with the removal of any structure at their own  
16 cost and expense and return that space to the City of Lincoln, free and clear of all structures or  
17 encroachments of any type, at no expense to the City. If the requested removal or abandonment  
18 has not been completed within six months after revocation of the permit, the City Council may  
19 cause such removal or abandonment to be so done and the cost of such work shall become a lien  
20 against the property of the Permittee.

21                   6.       Permittee shall pay, as rental fee for the space occupied, an amount equal  
22 to ten percent of the square foot value, as last fixed by the Board of Equalization, of the lot directly  
23 abutting on the use, multiplied by the square footage of the use of space.

1                   Said rental payments shall be made to the City Treasurer and shall be due  
2                   and payable on the 1st day of October of each year; provided however, the amount of the initial  
3                   payment required hereunder shall be pro-rated from the date when the permit is issued to the 1st  
4                   day of October of the next year and payments shall be due and payable on October 1st thereafter.  
5                   Rent shall become delinquent on the 1st day of December of each year and such delinquent rent  
6                   shall bear interest at the rate of one percent per month until paid and if such rent is not paid for six  
7                   months or more after such delinquent date, a penalty of five percent shall be added thereto in  
8                   addition to said interest.

9                   7.       The use of the public way herein granted and the terms and conditions of  
10                  this resolution shall be binding and obligatory upon the above-named Permittee, its successors and  
11                  assigns.

12                8.       That within thirty (30) days from the adoption of this resolution, and before  
13                  commencing any construction under the provisions hereof, the above-named Permittee shall file  
14                  an unqualified written acceptance of all the terms and conditions of this resolution with the City  
15                  Clerk. Failure to do so will be considered a rejection hereof and all privileges and authorities  
16                  hereunder granted shall thereupon ipso facto terminate.

Introduced by:

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Approved as to Form and Legality:

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City Attorney

Staff Review Completed:

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Administrative Assistant

Approved this \_\_\_\_ day of \_\_\_\_\_, 2001:

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Mayor